

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sara Griffin	Team: Squad #4	CCRB Case #: 201903917	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 05/05/2019 9:30 PM	Location of Incident: § 87(2)(b)	Precinct: 84	18 Mo. SOL 11/5/2020	EO SOL 6/22/2021	
Date/Time CV Reported Wed, 05/08/2019 12:27 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 05/08/2019 12:27 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Maxim Maloshag	3036	956058	084 PCT
2. POM Craig Schoelermann	19383	962787	084 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Derek Burgos	21798	959520	084 PCT
2. POM Toby Lau	11112	964607	084 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Maxim Maloshag	Force: Police Officer Maxim Maloshag used physical force against § 87(2)(b)	
B.POM Maxim Maloshag	Abuse: Police Officer Maxim Maloshag entered § 87(2)(b) in Brooklyn.	
C.POM Craig Schoelermann	Abuse: Police Officer Craig Schoelermann entered § 87(2)(b) in Brooklyn.	

Case Summary

On May 8, 2019, § 87(2)(b) called the CCRB and filed the following complaint. On May 5, 2019, at approximately 9:30 p.m., Police Officer Maxim Maloshag and Police Officer Craig Schoelermann of the 84th Precinct responded to a 911 call regarding a domestic dispute at § 87(2)(b)'s residence located at § 87(2)(b) in Brooklyn. PO Maloshag used force against § 87(2)(b) (**Allegation A: Force**, § 87(2)(g)). PO Maloshag and PO Schoelermann entered § 87(2)(b)'s residence (**Allegations B and C: Abuse of Authority**, § 87(2)(g)). No summonses were issued or arrests were made regarding the incident.

There is Body Worn Camera footage capturing the incident.

Findings and Recommendations

Allegation A- Force: Police Officer Maxim Maloshag used physical force against § 87(2)(b)

It is undisputed that § 87(2)(b) and § 87(2)(b) engaged in a loud verbal dispute inside of their apartment. It is undisputed that a third-party caller called 911 regarding the dispute occurring inside of the § 87(2)(b) residence. The caller stated that a Hispanic female and a Hispanic male were fighting inside the apartment and it was unknown if any weapons were involved (Board Review 1). PO Maloshag and PO Schoerlerman responded to the apartment and were buzzed into the apartment building.

§ 87(2)(b) testified (Board Review 2) that the verbal dispute with his wife was loud and lasted approximately three minutes. § 87(2)(b) denied that the dispute with his wife had ever become physical. The officers responded to the apartment approximately three minutes after their dispute ended. The officers knocked on the door and § 87(2)(b) opened the door halfway. PO Maloshag inquired if he could come inside. § 87(2)(b) told PO Maloshag that his wife, § 87(2)(b) was changing and he would let them in shortly. PO Maloshag told § 87(2)(b) that he was coming inside. § 87(2)(b) inquired if PO Maloshag had a warrant. PO Maloshag responded that his badge gave him the right to enter. PO Maloshag placed his right hand on § 87(2)(b)'s chest and pushed him against a wall. § 87(2)(b)'s back made contact with the wall. § 87(2)(b) remained upright after PO Maloshag pushed him.

§ 87(2)(b) testified (Board Review 3) that the verbal dispute with her husband lasted approximately 10 minutes, but denied the dispute became physical. Shortly after their argument ceased, the police knocked on the front door, and § 87(2)(b) went to the bedroom to put on clothes. From the bedroom, she heard a commotion, which sounded like a “boom,” from the front of the apartment. § 87(2)(b) could not see the front door from the bedroom.

In a subclip of PO Maloshag's BWC (Board Review 4), the front door to the apartment is opened partially upon the officers' approach. PO Maloshag stands in the doorway and speaks to § 87(2)(b) who is standing near the door inside of the apartment. PO Maloshag steps inside the apartment and looks around a wall and into the living room with his flashlight. PO Maloshag is

not observed pushing § 87(2)(b) in the chest nor is PO Maloshag observed making any physical contact with § 87(2)(b) while entering into the apartment.

A subclip of PO Schoelermann's BWC (Board Review 5) also captures PO Maloshag entering the apartment and PO Maloshag is not observed using any physical force against § 87(2)(b)

§ 87(2)(g)

Allegation B- Abuse of Authority: Police Officer Maxim Maloshag entered § 87(2)(b) in Brooklyn.

Allegation C-Abuse of Authority: Police Officer Craig Schoelermann entered § 87(2)(b) in Brooklyn.

It is undisputed that PO Maloshag and PO Schoelermann entered the apartment.

§ 87(2)(b) testified (Board Review 2) that, after being pushed against the wall, PO PO Maloshag and PO Schoelermann entered the apartment.

§ 87(2)(b) testified (Board Review 3) that she was in the bedroom when the officers entered the apartment.

PO Malsohag testified (Board Review 6) that, prior to this incident, he had responded to the location regarding domestic disputes between § 87(2)(b) and § 87(2)(b) approximately five to six times in the last year. On a prior occasion, § 87(2)(b) told PO Maloshag that § 87(2)(b) had tried to kill her. PO Maloshag did not remember the exact date § 87(2)(b) made this statement to him, but believed it was a few months prior to the incident date. On the prior instances when PO Maloshag had responded to the location, both § 87(2)(b) and § 87(2)(b) would open the door screaming and yelling and would begin to yell at the officers. On the date of incident, the radio call came over as an assault in progress and it was unknown if a weapon was involved. Upon arrival to the location, screaming could be heard coming from the apartment, as it was on the first floor and the apartment's window faces the street. The screaming was coming from both a male and a female. PO Maloshag was unable to make out any specific statements being yelled. Wanting to ensure the welfare of § 87(2)(b) PO Maloshag buzzed every apartment in the building. After being buzzed in and approaching the front door, the screaming from inside the apartment stopped. PO Maloshag knocked on the front door of the apartment. PO Maloshag could not hear any other noises coming from inside of the apartment. § 87(2)(b) opened and cracked the front door. § 87(2)(b) appeared pale and sweaty. § 87(2)(b) blocked PO Maloshag's view into the apartment. PO Maloshag asked § 87(2)(b) if he could see his wife. § 87(2)(b) responded that PO Maloshag could not see his wife, as she was changing. PO Maloshag told § 87(2)(b) that he needed to ensure everyone was okay inside of the apartment. PO Maloshag could not hear § 87(2)(b)'s voice while speaking to § 87(2)(b) at the door. PO Maloshag estimated he was speaking to § 87(2)(b) for approximately one to two minutes before he walked into the apartment. PO Maloshag denied requesting consent from § 87(2)(b) prior to entering.

PO Schoelermann's testimony (Board Review 7) was consistent with PO Maloshag's with the following exceptions. PO Schoelermann had been informed by an officer from the same sector that § 87(2)(b) had alleged § 87(2)(b) attempted to injure her during a previous domestic dispute officers had responded to.

PO Maloshag's BWC (Board Review 8) does not contain audio during the first 30 seconds of the recording. At approximately 0:30, PO Maloshag is at the apartment door and tells the occupants that a loud noise was heard coming from inside their apartment. § 87(2)(b)'s voice is not heard and she is not visible while PO Maloshag speaks to § 87(2)(b) at the door. § 87(2)(b)'s and § 87(2)(b)'s daughter, § 87(2)(b) can be heard. At approximately 1:00, PO Maloshag tells the occupants that he heard § 87(2)(b) screaming from outside the apartment. § 87(2)(b) responds that he and § 87(2)(b) were just talking.

PO Schoelermann's BWC (Board Review 5) was played during both officers' interviews. Reviewing the video did not aid in refreshing both officers' recollections regarding the apartment's front door being open upon approach.

The 911 caller (Board Review 1) reported that a Hispanic female and a Hispanic male were fighting inside of the apartment and it was unknown if any weapons were involved in the dispute. The radio call came over as a "10-34," which is an assault in progress.

A Domestic Incident Report (Board Review 16) was prepared by PO Schoelermann regarding the dispute.

The Constitution is not a barrier to a police officer seeking to help someone in immediate danger, thereby excusing or justifying otherwise impermissible police conduct that is an objectively reasonable response to an apparent exigent situation. The exception is comprised of three elements: (1) the police must have reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life or property and this belief must be grounded in empirical facts; (2) the search must not be primarily motivated by an intent to arrest or seize evidence; and (3) there must be some reasonable basis, approximating probable cause, to associate the emergency with the area or place to be searched. People v. Doll 21 N.Y.3d 665 (2013) (Board Review 9).

§ 87(2)(g)
[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 10).
- § 87(2)(b)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- PO Schoelermann has been a member-of-service for two years and this is the first CCRB complaint to which he has been a subject (Board Review 12).
- PO Maloshag has been a member of service for five years and has been a subject in six CCRB complaints and nine allegations, none of which were substantiated. § 87(2)(g) [REDACTED]
[REDACTED] (Board Review 13).

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- On August 5, 2019, a request was submitted with the Office of the New York City Comptroller for any notice of claim filed by § 87(2)(b) and/or § 87(2)(b). The results are pending and will be added to the case file upon its receipt.

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date

